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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/542,998	12/19/2005	Ken Iwayama	19036/41347	7862
4743 7590 09/14/2007 MARSHALL, GERSTEIN & BORUN LLP 233 S. WACKER DRIVE, SUITE 6300 SEARS TOWER CHICAGO, IL 60606			EXAMINER PHILLIPS, FORREST M	
			ART UNIT 2837	PAPER NUMBER
			MAIL DATE 09/14/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/542,998

Applicant(s)

IWAYAMA ET AL.

Examiner

Forrest M. Phillips

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 11/23/05.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2,7 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Grote (US4484658).

With respect to claim 1 Grote discloses an auxiliary mounting device for an in ceiling speaker system, comprising:

A ceiling reinforcing element (22 in figure 2); and an elongate element (27 in figure 1), wherein the ceiling reinforcement element includes a flat plate portion provided horizontally on a rear surface of a ceiling plate and having an opening at a center portion thereof, and a vertical portion (23 in figure 2) provided to extend vertically from the flat plate portion,

The elongate element is provided to extend on a horizontal plane,

The vertical element is mounted to the elongate element such that the vertical portion is capable of being in a slidable state and in a fixed state,

In the slidable state, the vertical portion is vertically slidable and displaceable with respect to the elongate element, and in the fixed state, the vertical portion is fixed to the elongate element so as not to vertically displace (refer to all figures and Column 1 lines 55-62).

With respect to claim 2 Grote further discloses wherein the elongate element is one of a pair of elongate elements (see figure 1), the vertical portion is one of a pair of vertical portions which are provided to extend vertically from the flat plate portion at substantially the opposite positions with the opening interposed between the pair of vertical portions, and the pair of elongate elements are provided substantially in parallel with each other on the horizontal planes so as to respectively correspond to the pair of vertical portions.

With respect to claims 7 and 10 Grote further discloses wherein in the slidable state, the vertical portion is slidable and displaceable with respect to the elongate element in the longitudinal direction of the elongate element, and in the fixed state the vertical portion is fixed to the elongate element so as to not displace in the longitudinal direction of the elongate element (refer to figures).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3-6,8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grote (US4484658) in view of Cohen (US3872296).

With respect to claims 3 and 8 Grote discloses the invention as claimed except wherein there is an intermediate element mounted to the elongate element, wherein the vertical portion is capable of being in a slidable state in which the vertical portion is vertically slidable and displaceable with respect to the intermediate element and in a fixed state in which the vertical portion is fixed to the intermediate element so as to not vertically displace with respect to the intermediate element, and the vertical portion is mounted to the elongate element with the intermediate element interposed between the vertical portion and the elongate element such that the vertical portion is capable of being in the slidable state and the fixed state.

Cohen discloses a mounting device for an in the ceiling structure comprising:

An intermediate element (17 in figure 1) mounted to an elongate element (23 in figure 1) wherein the vertical portion is capable of being in a slidable state in which the vertical portion is vertically slidable and displaceable with respect to the intermediate element and in a fixed state in which the vertical portion is fixed to the intermediate element so as not to vertically displace with respect to the intermediate element and the vertical portion (14 in figure 1) is mounted to the elongate element with the intermediate element interposed between the vertical portion and the elongate element such that the vertical portion is capable of being in slidable state and fixed state.

At the time of the invention it would have been obvious to one of ordinary skill in the art to combine the teachings of Cohen to have an intermediate element with the mounting structure of Grote to allow for independent adjustment of both vertical and horizontal dimensions.

With respect to claims 4 and 10 Grote in view of Cohen further discloses wherein the intermediate element is mounted to the elongate element such that the intermediate element is mounted to the elongate element such that the intermediate element is capable of being in a first state and in a second state with respect to the elongate element,

In the first state, the intermediate element is slidable and displaceable with respect to the elongate element in a longitudinal direction of the elongate element, and in the second state the intermediate element is fixed to the elongate element so as not to displace in the longitudinal direction of the elongate element.

Grote allows for slidable adjustment of the vertical element, Cohen discloses the use of an intermediate member which can be adjusted along the longitudinal direction, though not in a sliding manner. At the time of the invention it would have been obvious to one of ordinary skill in the art to combine these teachings to allow independent adjustment in a sliding and therefore effectively continuous manner in both directions, longitudinal and vertical.

With respect to claims 5 and 9 Grote in view of Cohen further discloses wherein the intermediate element includes a first mounting portion by which the intermediate element is mounted to the elongate member (the tooth members and the weight of the device serve to mount the intermediate element), and a second mounting portion by which the vertical portion is mounted to the intermediate element (the through holes and threaded fasteners), and the first mounting portion and the second mounting portion are located at different portions in a vertical direction (the slots, 21, which receive the teeth

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members are located at differing vertical positions with respect to the through holes (16)refer to figure 1).

With respect to claim 6 Grote in view of Cohen discloses the invention as claimed except for the use of a U-shaped elongate element, such C-channel supports are well known in the art, and would be desireable to use as they are known to provide greater rigidity and resistance to deformation.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Refer to form 892.

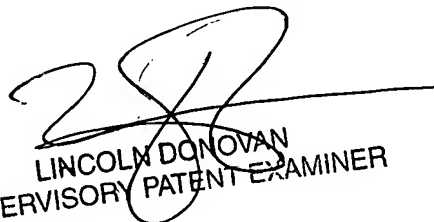
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Forrest M. Phillips whose telephone number is . 5712729020. The examiner can normally be reached on Monday through Friday 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lincoln Donovan can be reached on 5712721988. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

FP

  
LINCOLN DONOVAN  
SUPERVISORY PATENT EXAMINER